SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64677; File No. SR-Phlx-2011-80)

June 15, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing of Opening Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4[2] thereunder, notice is hereby given that, on June 2, 2011, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1017, Openings in Options, to reflect a system change that describes the price at which the Exchange will route opening orders to away markets in certain circumstances. Specifically, the Exchange will route orders on the open to away markets at prices other than the Exchange's opening price when such order's limit price is marketable against an away market but not marketable against the Exchange's opening price.

The text of the proposed rule change is available on the Exchange's website at http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to reflect a change to the PHLX XL® automated options trading system[3] under which opening orders that are submitted to the Exchange with a limit price that is better than the Exchange's opening price would be routed to away markets at the better-priced limit order's limit price. In such a circumstance, the better-priced limit order could not be executed on the Exchange, but may be executable on an away market.

Current Rule and System Functionality

Currently, Exchange Rule 1017 describes a variety of situations under which the PHLX XL system routes opening orders to away markets when there is remaining interest on the

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3 This proposal refers to "PHLX XL" as the Exchange's automated options trading system. In May 2009 the Exchange enhanced the system and adopted corresponding rules referring to the system as "Phlx XL II." See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The Exchange intends to submit a separate technical proposed rule change that would change all references to the system from "Phlx XL II" to "PHLX XL" for branding purposes.

Exchange that cannot be executed at the Exchange's opening price.[4] Whether and under what various circumstances an opening limit order is to be routed are described in detail in Rule 1017.[5]

The PHLX XL system calculates the opening price based upon the price at which the greatest number of contracts can be executed.[6] If there are remaining contracts that are marketable at the Away Best Bid or Offer ("ABBO") after the execution at the Exchange's opening price, such remaining contracts are routed to the ABBO market(s) at a price that is equal to the Exchange's opening price.[7] If, however, the remaining contracts have a limit price that is better than the Exchange's opening price, and the PHLX XL system routes them to the ABBO market(s) at the Exchange's opening price, the result could be an execution on the ABBO market(s) at a price that is inferior to the limit price of the routed order.

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4 The PHLX XL system calculates the Exchange's opening price as follows: if there are no opening quotes or orders that lock or cross each other, the system will open by disseminating the Exchange's best bid and offer among quotes and orders that exist in the Phlx XL II system at that time (because if no quotes or orders lock/cross each other, nothing matches and there is no trade).

If there are opening quotes or orders that lock or cross each other, the Phlx XL II system will take the highest bid and the lowest offer among quotations received that have a bid/ask differential that is compliant with Rule 1014(c)(i)(A)(1)(a) ("valid width quotes"), to determine the highest quote bid and lowest quote offer. To calculate the opening price, the Phlx XL II system will take into consideration all valid width Phlx quotes, sweeps (defined below) and orders together with other exchanges' markets for the series and identify the price at which the maximum number of contracts can trade. If that price is within the highest quote bid and lowest quote offer and leaves no imbalance, the Exchange will open at that price, executing marketable trading interest, as long as the opening price includes only Phlx interest.

See Exchange Rules 1017(l)(i) and (ii).

5 For a thorough description of the PHLX XL system's functionality in routing opening orders, see Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 June 3, 2009) (SR-Phlx-2009-32).

6 See supra note 4.

7 See Exchange Rule 1017(l)(ii)(C)(2).

Example

The following example illustrates the issue. Assume that the opening scenario is:

The ABBO is 1.00 (10) x 1.05 (10)

Opening order to buy 10 contracts at 1.05

Opening order to buy 10 contracts at 1.06

Opening order to buy 10 contracts at 1.06, with instructions "do not route"

Opening order to sell 20 contracts at 1.06 with instructions "do not route"

In this example, the Exchange's opening price is 1.06, because that is the price at which the greatest number of contracts will trade. The PHLX XL system will route 10 contracts to the ABBO to buy at 1.06 (with an expected execution price of 1.05) and trade 10 contracts on the Exchange at 1.06 (matching the "do not route" buy order for 10 contracts against the "do not route" order to sell 20 contracts at 1.06, leaving 10 remaining "do not route" contracts to sell at 1.06 on the Exchange). The opening order to buy 10 contracts at 1.05 will remain on the Exchange's order book as will the remaining 10 contracts of the "do not route" sell order at 1.06. The order to buy 10 contracts at 1.05 was marketable against the ABBO but could not be executed as part of the opening process because the PHLX XL system currently only routes to the ABBO market(s) at the Exchange's opening price, which is 1.06, and which is inferior to the 1.05 limit price.

The Proposal

In order to address the issue described in the above example, the Exchange proposes to amend the rule and change the system to provide that the PHLX XL system will not only route to the ABBO market(s) at a price that is equal to the Exchange's opening price, but also will route to the ABBO market(s) at a price that is better than the Exchange's opening price. With this system change, the PHLX XL system would route the order to buy 10 contracts at 1.05 to the ABBO market(s) and trade the other orders in their entirety at 1.06.

The PHLX XL system will determine to route contracts to the ABBO market(s) at a price that is equal to the Exchange's opening price when there is interest on the Exchange at that price, but not all of the contracts marketable at that price can be executed on the Exchange. Remaining contracts from the partially executed order will be routed to ABBO market(s) against which the order is marketable.

The PHLX XL system will determine to route contracts to the ABBO market(s) at a price that is better than the Exchange's opening price when such contracts are not marketable on the Exchange but are marketable against the ABBO market.

The Exchange believes that this solution to the opening routing issue described above ensures the routing of marketable opening orders with a limit price that is better than the Exchange's opening price to ABBO markets. This enables the PHLX XL system to seek, and route opening orders to, the best away market(s) in the circumstance described above, all to the benefit of the investing public.

2. <u>Statutory Basis</u>

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5) of the Act[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by adopting a rule and system change that affords quality

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

executions on the opening at the best prices available, regardless of whether such prices are present on the Exchange or on the ABBO market(s).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)[10] of the Act and Rule 19b-4(f)(6)[11] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing.[12] However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay, as

10 15 U.S.C. 78s(b)(3)(A).

11 17 CFR 240.19b-4(f)(6).

12 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

specified in Rule 19b-4(f)(6)(iii),[13] which would make the rule change effective and operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the proposal to take effect immediately, which may result in better execution prices for investors at the opening. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or

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13 17 CFR 240.19b-4(f)(6)(iii).

14 For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2011-80 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2011-80. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2011-80 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Cathy H. Ahn
Deputy Secretary

[15] 17 CFR 200.30-3(a)(12).